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HOUSE BILL 1919 By
Scroggs

SENATE BILL 1892
By Person

AN ACT to amend Tennessee Code Annotated, Title 37,
Title 40 and Title 49 relative to juveniles and
truancy.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 37, Chapter 1, Part 1, is amended by
adding the following as an appropriately designated section:

Section (___) Observation and Assessment Centers -- Establishment. --

(a) For the observation and assessment of youth adjudicated delinquent, the department shall establish observation and assessment centers. Such centers shall serve youth adjudicated delinquent who are awaiting disposition on delinquency charges and are placed in the temporary custody of the department of children's services for the purposes of assessment. Such centers shall be secure facilities under the supervision and control of the commissioner of children's services.

(b) The department shall establish and operate a pilot project in one rural West Tennessee county to serve rural West Tennessee. The pilot project shall be in addition to any such center that may be in operation at the time of passage of this act. Such centers shall be regional and serve youth adjudicated delinquent in a region determined by the department. Observation and

assessment centers are established to provide the juvenile courts with predisposition information regarding the psychological functioning, educational achievement or needs, and behavioral issues of youth adjudicated delinquent to assist the court in determining proper disposition of delinquent youth.

(c) At any time prior to the disposition of a child who has been adjudicated delinquent, the court may, subject to available capacity in the observation and assessment center, place the child in the temporary custody of the department for the purpose of evaluation and assessment and order that the department make an assessment of the child and report the findings and recommendations to the court. Such order shall confer authority upon the department or its designees to transport the child and to obtain any necessary evaluations of the child without further consent of the parent or parents, legal custodian or guardian.

(d) At the time a juvenile court refers a youth to an observation and assessment center, it shall schedule a final disposition hearing to be held within forty-five (45) days. Youth referred to the center shall not remain in the department's temporary legal custody in excess of forty-five (45) days. Should the juvenile court fail to schedule the final dispositional hearing by the thirty-fifth (35th) day of the department's temporary legal custody, the department shall petition the court for the scheduling of a dispositional hearing and the court shall set said hearing within ten (10) calendar days.

(e) The licensed or otherwise approved capacity of observation and assessment centers shall not be exceeded under any circumstances. If the department determines, based upon center capacity, that there are no available placements at the center, the department shall notify the referring court and the court shall immediately proceed with disposition.

(f) The department of children's services may promulgate rules in accordance with the provisions of the Uniform Administration Procedures Act, compiled in Title 4, Chapter 5, to implement the provisions of this section.

(g) As to children placed in an observation and assessment center pursuant to Title 37, Chapter 1 Part 1, the following information shall be provided in the report to be provided to the house children and affairs committee and the senate general welfare, health and human resources committee; the senate and house finance committees, and the select committee on children and youth. The report should be submitted on or before June 30, 2002. The following information should be contained in said report:

(1) The number of children who, as a result of an assessment in an observation and assessment center, remain with their families rather than being placed in an out-of-home placement;

(2) The average cost of services provided to families for children identified in subdivision (1), above;

(3) The estimated cost of out-of-home placement and services that would have otherwise been expended on behalf of those children identified in subdivision (1) above;

(4) The number of children identified in subdivision (1), above, who remain united with their families after one (1), two (2), and three (3) years, respectively; and

(5) Any recommendations of the department pertaining to the observation and assessment program.

SECTION 2. Tennessee Code Annotated, Section 37-1-128(g) is deleted in its entirety.

SECTION 3. Tennessee Code Annotated, Section 49-6-3005, is amended by adding the following at the end of, and as part of, subdivision (a)(5):

Upon receipt of a request for a waiver of the requirement of compulsory attendance from a child or his or her parents that contains an explanation of reasons and a plan for employment and future education of the child, the board may refer the request to the truancy review board serving such board of education. The truancy review board shall make a recommendation to the local board of education in charge of the school to which such child belongs as to the granting of a conditional or unconditional release and, in making such recommendations, shall consider the following factors:

- (A) Previous attendance of the child;
- (B) Disciplinary records of the child;
- (C) Previous records of academic achievement of the child;
- (D) Employment or other plans of the child;
- (E) Plans of the child to obtain a high school diploma through the GED program;
- (F) The recommendation in writing from the superintendent of the system and the principal of the school to which such child or children belong; and
- (G) Any other factor which, in the opinion of the truancy review board, is relevant to the granting of a release from compulsory attendance.

SECTION 4. Tennessee Code Annotated, Section 49-6-3005 is further amended by deleting in their entirety subsections (b), (c), and (d), and by substituting instead the following:

- (b) The truancy review board may require the child and his or her parents to provide any information which the truancy review board considers relevant to its recommendation.

(c) After review of the recommendation of the truancy review board, the board of education may, in its sound discretion, grant a conditional release from compulsory attendance and may require the child to comply with such conditions as the board of education deems appropriate, including, but not limited to:

- (1) Obtaining of a GED diploma;
- (2) Continued employment on a full-time basis; or
- (3) Other conditions as the local board of education may deem appropriate.

(d) Should the child violate any of the conditions of his or her conditional release from compulsory attendance, the local board of education may revoke the release and both child and his or her parents shall be subject to compulsory attendance as required by this chapter. In addition to any other violations of the conditions of the child's conditional release from compulsory attendance, the board of education shall revoke the conditional release in the event the child is convicted of a delinquent or an unruly act as defined by Tennessee law.

SECTION 5. Tennessee Code Annotated, Section 49-6-3006, is amended by deleting subsection (b) in its entirety and by substituting instead the following:

(b)(1) To facilitate the enforcement of this part, each superintendent and the judge having jurisdiction over juvenile proceedings in the county may create a voluntary Truancy Review Board (TRB).

- (1) The members of the TRB shall include, but not be limited to, the following persons, whenever practicable: at least one (1) qualified full-time attendance officer or teacher, whose duty is shall be to assist the board, under the direction of the superintendent, to enforce the compulsory attendance laws of the state, and to discharge such other duties as are usually performed by, or

delegated to, attendance officers/teachers; at least one (1) person appointed by the judge having jurisdiction over juvenile proceedings in the county; at least one (1) representative or staff member of a local mental health agency; at least one (1) parent whose child attends a school operated by the applicable board of education; at least one (1) person representing the medical community; at least one (1) person representing the business community; at least one (1) person representing the social service community; at least one (1) person representing the local law enforcement agency; a parent whose child attends school in the community; and one (1) twelfth grade high school student to act as an advisor. The superintendent and the judge having jurisdiction over the juvenile proceedings in the county shall appoint one (1) member of the TRB to serve as a chair for a two-year term. No chair is to serve more than two (2) consecutive terms.

(2) Each TRB may be divided into panels of at least three (3) persons, representing at least three (3) of the categories of members referred to in paragraph (b) (2), above, to carry out the functions of the TRB. Any action taken by such a panel shall be deemed to be an action to the TRB and shall have the same force and effect as if taken by the entire TRB.

(3) The TRB or its panels shall meet as often as required to carry out the duties of the TRB. The chair and school attendance officer or teacher, or their designee shall make the assignments to each panel and shall schedule meetings and hearings. As much as practical, the work assignments and workload shall be divided in an equitable manner between or among the panels. No panel shall meet without at least one (1) local school employee being present.

(4) The superintendent and the judge having jurisdiction over

juvenile proceedings in the county, or their designees, shall be responsible for determining the duties consistent with the requirement of this chapter as well as monitoring the activities and evaluating the effectiveness of the TRB. They shall be responsible for the TRB following both federal and state confidentiality laws.

(5) The superintendent and the judge having jurisdiction over juvenile proceedings in the county shall ensure that the members of the TRB receive appropriate training prior to the members' participation on the TRB or panels thereof.

(6) The superintendent of the local school system shall provide one (1) or more persons to furnish the TRB with the necessary clerical/administrative and support staff and one (1) or more case workers to assist in the preparation, presentation, review, and follow-up of the cases being considered by the TRB or its panels.

SECTION 6. Tennessee Code Annotated, Section 49-6-3007(a), is amended by deleting the words "duly elected attendance" and by substituting instead the words "attendance officer or".

SECTION 7. Tennessee Code Annotated, Section 49-6-3007, is further amended by adding the following as new, appropriately designated subsections:

(--) In school systems participating in a Truancy Review Board Initiative, it is the duty of the principal, or his or her designee, of every public, private or parochial school to contact, in person or by telephone, the parent or guardian of every child who has two (2) or more absences within a school year that have been determined to be unexcused. During this contact, the principal or his or her designee shall attempt to identify any problems with the parent, guardian, or student may have with school attendance and

remind the parent or guardian and student of the compulsory student laws of the State of Tennessee. Upon the third or subsequent unexcused absence of a student, the principal or his or her designee shall send a letter to the parent or guardian warning the parent or guardian that all unexcused absences are reported to the school attendance officer or teacher. Upon each and every contact by the principal or his designee regarding the unexcused absence of a student, the attendance officer or teacher for that school shall be notified by the principal or his or her designee.

(--)(1) Upon receiving a referral regarding a student having more than three (3) unexcused absences, the attendance officer or teacher shall send, or cause to be sent, a letter asking the parent or guardian and student to attend a meeting of the TRB so the parties may seek to identify any problems with school attendance by the student and attempt to develop an appropriate remedy and enter into an agreement with the parent or guardian and student in which the responsibilities of all parties, including the school, are clearly identified and agreed to. It shall be explained in the letter that if the parent or guardian and student decline to meet with TRB, there will be a referral made to the court having jurisdiction over truancy for appropriate action.

(2) If any of the parties, including the school, teacher, parent or guardian, or student fail to comply with the terms of the agreement reached under each subsection (f)(1) above, the TRB may, in its sole discretion, take whatever steps it deems necessary, including, but not limited to:

(A) Termination of the agreement and referral to the attendance officer or teacher who shall file a petition or complaint regarding the juvenile to the court having jurisdiction over truancy for appropriate action;

(B) Concluding a review hearing to identify the problems and identify an appropriate remedy; or

(C) Entering into a new agreement.

(--) If it appears that, within (3) school days after receipt of the notice, the parent, guardian or other person responsible for the child has failed to comply with the provisions of this part, the attendance officer or teacher shall file a complaint or petition in the court having jurisdiction over juvenile cases, against the parent, guardian or other person responsible for the child in accordance with the provisions of this chapter, unless the parent, guardian or person responsible for the child shall at once place the child in some day school as aforementioned.

(--) Except as otherwise provided by Section 49-6-3001 or 49-6-3005, the provisions of this section shall be applicable to children less than six (6) years of age and their parent, guardian, or other person in a parental relation when such parent, guardian, or other person responsible for the child has enrolled the child in any school which receives funding based on average daily membership; provided, that a child may be withdrawn within six (6) weeks of initial enrollment without penalty.

SECTION 8. Tennessee Code Annotated, Section 49-6-3009(a), is amended by deleting the words "Class C" and by substituting instead "Class B".

SECTION 9. Tennessee Code Annotated, Section 49-6-3012, is amended by deleting that section in its entirety and by substituting instead the following:

Section 49-6-3012. Any Board of education may establish a truancy school for children who are seven (7) years of age or older, and who are truants or while in attendance at school are disorderly or disruptive. Such children may be compelled by the board to attend such truancy school or any department of public school as the board may direct.

SECTION 10. This act shall not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before its effective date.

SECTION 11. Tennessee Code Annotated, Section 37-1-102)b)(23)(A), is amended by deleting sub item (i) in its entirety and by substituting instead the following:

- (i) was found to have violated the compulsory school attendance requirements of § 49-6-3007; or

SECTION 12. If any provisions of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect the other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are declared to be severable.

SECTION 13. This act shall take effect upon becoming law, the public welfare requiring it.